

**REMARKS**

**STATUS OF THE CLAIMS**

Claims 1 and 3-49 are pending. Applicants note with appreciation that claims 7-13, 15, 17, 18, 22, 23, 25, 33-39, 41, 43 and 44 would be allowable if rewritten in independent form.

Claim 1 has been amended as shown above to specify that three-dimensional configuration of the vaso-occlusive element is either self-forming upon deployment or does not change upon deployment into the target vessel. Support for the amendment can be found throughout the specification as filed, for example on page 6, lines 19-23.

Thus, claims 1 and 3-49 are pending as shown above.

**REJECTIONS WITHDRAWN**

Applicants note with appreciation that the rejections under 35 U.S.C. §§ 101, 112 (2<sup>nd</sup> paragraph), 102(b) and 102(e) have been withdrawn.

**35 U.S.C. § 103**

Claims 1, 3-6, 14, 16, 19-21, 24, 26-32, 40, 42, and 45-49 were rejected under 35 U.S.C. § 103(a) as allegedly anticipated by Cooper in view of U.S. Patent No. 6,656,173 (hereinafter "Palermo"). In support of this rejection, the Examiner states, in part:

Cooper discloses the invention substantially as claimed. Cooper teaches the use of biocompatible absorbable polymeric 3-dimensional injected molded medical devices (col. 4, lines 41-53). Some of these devices include vascular implants and preformed defect fillers (col. 6, lines 18 and 27). ... Cooper fails to directly teach injection molding of a vaso-occlusive element having a particular configuration, the use of cutting or machining to assist in forming the device or the use of radio-opaque material in the device. (Office Action, pages 4-5).

In fact, Cooper teaches nothing about vaso-occlusive elements or methods of making vaso-occlusive elements. The "vascular implants" and "preformed defect fillers" disclosed at col. 6, lines 18 and 27 are not vaso-occlusive devices as claimed. Moreover, Cooper also requires that the matrix material be deformable upon heating and that the device assumes a different configuration after deployment **as it cools**. See, e.g., Abstract of Cooper. As acknowledged by the Office (for instance, by indication that claim 27 and claims dependent therefrom are allowable), this is entirely unlike the methods and compositions of claims 1, 3-6, 14, 16, 19-21, 24, 26-32, 40, 42, and 45-49, which devices are either self-forming upon deployment or deployed in their three-dimensional configurations.

Thus, there is no motivation to combine Cooper with Palermo and no combination that would render pending claims obvious. Accordingly, withdrawal of this rejection is in order.

**PROVISIONAL OBVIOUSNESS-TYPE DOUBLE PATENTING**

Claims 1, 3-5, 8-10, 14, 19-30, 34-37 and 44-49 were provisionally rejected under the judicially created doctrine of obviousness-type double patenting as unpatentable over claims 1, 2, 5, 8, 22, 28-31, 36, and 45 of co-pending application 10/423,304.

Applicants request that, if applicable, this rejection be applied in copending 10/423,304 after allowance of the pending claims in this application.

**OBVIOUSNESS-TYPE DOUBLE PATENTING**

Claims 1, 3-7, 11-32, 37-39, 41, 42 and 45-49 were rejected under the judicially created doctrine of obviousness-type double patenting as allegedly unpatentable over claims 1-3, 7, 12, 13, 18-20 and 22 of U.S. Patent No. 6,585,754 (hereinafter "Wallace") in view of U.S. Patent No. 6,332,884 (hereinafter "Cooper").

Applicants traverse the rejection.

As acknowledged by the Examiner, Wallace does not teach or suggest the subject matter of claims 1, 3-7, 11-32, 37-39, 41, 42 and 45-49. Furthermore, for the reasons detailed above Cooper does not teach or suggest vaso-occlusive elements as claimed. Therefore, withdrawal of this rejection is requested.

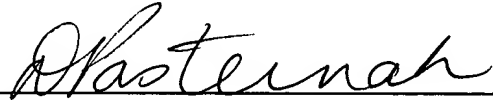
**CONCLUSION**

For the reasons discussed above, Applicant submits that the claims are in condition for allowance and request early notification to that effect. If the Examiner has any further issues or wishes to discuss any of the foregoing, she is invited to contact Applicant's undersigned attorney at the telephone number listed below.

Respectfully submitted,

Date: October 25, 2004

By: \_\_\_\_\_



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